

P-430, P-421/SA-88-688APPROVING BOUNDARY CHANGE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Joint Petition by United Telephone Company of Minnesota and Northwestern Bell Telephone Company for a Boundary Line Change in the Osseo/Minneapolis-St. Paul Metropolitan Exchange

ISSUE DATE: February 22, 1989

DOCKET NO. P-430, P-421/SA-88-688

ORDER APPROVING BOUNDARY CHANGE

PROCEDURAL HISTORY

On October 7, 1988, Northwestern Bell Telephone Company (NWB) and United Telephone Company of Minnesota (United) filed a joint petition with the Minnesota Public Utilities Commission (the Commission). The companies requested a boundary change in the Osseo/Minneapolis-St. Paul Metropolitan exchanges. The request involves a residential development with 41 lots. Five of the lots in the development are within United's territory; two are in both United's and NWB's territory; and the remaining lots are in NWB's territory. The companies requested that the two divided lots be made part of United's territory. NWB and United submitted an agreement to waive public hearing on the proposed boundary change.

In its Report of Investigation and Recommendation of November 9, 1988, the Minnesota Department of Public Service (Department or DPS) recommended that the Commission issue a notice and order for public hearing to identify and receive comments from all interested parties. The DPS recommended that notice of the public hearing be published in at least two newspapers of general circulation in Hennepin County in addition to bill inserts to metropolitan customers.

On November 17, 1988, NWB filed comments on the DPS recommendation saying that the Commission should conduct a hearing with the interested parties: DPS, Sunnyslope of Maple Grove Associates (the Developer), United and NWB.

On November 21, 1988, United commented that a hearing was not required by law nor appropriate in this case.

The Department filed a response to the comments of the companies and modified its position to

recommend that the Commission conduct a hearing with the interested parties which are United, NWB, the Developer, the Department and other parties that the Commission deemed appropriate.

On January 13, 1989, the Developer filed a letter with the Commission waiving its rights to a public hearing.

Following individual written notice to the companies, the Developer, the DPS and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), the Commission met on January 17, 1989 to consider this matter.

FINDINGS AND CONCLUSIONS

The Commission must first determine the scope of the hearing that is necessary to protect the due process interests of all interested parties. Then the Commission must determine whether public convenience requires the requested boundary change.

Minn. Stat. § 237.16, subd. 1 governs this proceeding. It states in relevant part:

No lines or equipment shall be constructed or installed for the purpose of furnishing local telephone service to the inhabitants or telephone users in any locality in this state, where there is then in operation in the locality or territory affected thereby another telephone company already furnishing such service, without first securing from the commission a declaration, after a public hearing, that public convenience requires such proposed telephone lines or equipment; (Emphasis supplied.)

The statute provides that no telephone company shall furnish local, rural or toll telephone service to the inhabitants of any locality in which such service is currently provided by another telephone company without a Commission determination, after public hearing, that public convenience requires the proposed service. The Commission finds that the plain language of the statute quoted above requires a public hearing in this matter. The companies involved in a proposed boundary change do not have the right to waive a hearing on the boundary proposal. Similar to procedures employed for service area changes related to electric utilities, the Commission finds that all interested parties need to be notified.

Generally, interested parties include the telephone companies affected, the land owners, existing customers, the Commission and the Department. In cases where general rate payers would be significantly affected by a proposed boundary change, a public notice is warranted. However, this is not such a case.

The Commission finds that the expense of newspaper notice and bill inserts to metropolitan customers is unnecessary and unwarranted in this case as only portions of two residential lots are affected by the proposed boundary change. The Commission's decision here is based on the minor nature of the proposed boundary change and the significant costs of notices and hearing. This decision should not be construed as setting a precedent that notice to interested parties will always satisfy the statutory notice requirement. In some cases statewide notice of a boundary change may be appropriate.

The Commission finds that the interested parties in this proceeding, the companies, the DPS, the Developer, and the RUD-OAG were given notice of the Commission's meeting to consider this matter through the Commission's weekly calendar as well as by individual written notice. They were afforded an opportunity to present their positions. The statutory requirement of a public hearing has been met in this case.

Further, the Commission finds that public convenience will be served by allowing the proposed boundary change. The Commission recognizes the administrative reasonableness of the proposed boundary lines in that the new lots being developed will be entirely within the boundary of one telephone company. This will facilitate planning by the companies and minimize wasted resources and stranded investment. A prospective lot buyer can consider who the telephone service provider will be in making the decision to buy a particular lot. The Commission concludes that the proposed boundary change meets the public convenience standard of Minn. Stat. § 237.16, subd. 1 and will approve it.

ORDER

1. The joint petition by United Telephone Company of Minnesota and Northwestern Bell Telephone Company for a boundary line change in the Osseo/Minneapolis-St. Paul Metropolitan exchanges is hereby granted.
2. The Department shall update the official service maps to reflect the Commission's decision made here.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)